

## **Advisory Opinion**

IECDB AO 2017-01

July 19, 2017

Mr. Brad Anderson  
4129 Forest Avenue  
Des Moines, IA 50311

To Mr. Anderson:

This opinion is in response to your request for an opinion from the Iowa Ethics and Campaign Disclosure Board. We issue this opinion regarding online sales of campaign merchandise. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

### **FACTS:**

You advise the Board you are interested in designing and opening individual online stores to allow candidates to sell merchandise such as t-shirts, yard signs, and magnets to their supporters. A store would require no initial costs to the candidate. Instead, items would be made-to-order and the candidate would sell the items for more than you would charge the candidate for the items. For example, you may charge a candidate \$15 per t-shirt and the candidate would in turn sell the t-shirt for \$25. When a sale is made, you would retain \$15 for printing the t-shirt and fulfilling the order and then you would remit \$10 to the candidate. Additionally, you would offer supporters the opportunity to contribute an additional amount of money to the candidate. Continuing with the example above, a supporter could buy a t-shirt for \$25 and donate an extra \$50 to the candidate's campaign. The campaign would receive \$10 for the t-shirt and the \$50 contribution less a small handling fee. You plan to require every purchaser to provide all the information necessary for a candidate to properly disclose these purchases and contributions to the Ethics Board.

### **ISSUE:**

How should a candidate properly report online sales of merchandise where the candidate receives the net proceeds from a third party that is operating the online store?

## OPINION:

Iowa Code section 68A.402A sets out the information a candidate is required to disclose on his or her financial disclosure reports filed with the Board. Pertinent to your inquiry, a candidate must disclose the name and mailing address of every person who gives more than \$25 in a calendar year. The candidate must also disclose the name and mailing address of each person to whom disbursements or loan repayments have been made by the committee from contributions during the reporting period. Section 68A.402A also requires any additional information that is required by rules promulgated by the Board.

The Board's rule 351—4.1 requires the candidate to report the amount and date of each contribution (except for small un-itemized contributions) along with the contributor's name and mailing address. Additionally, this rule requires contributions arising from the sale of goods or services at a fund-raising event to be designated by marking the indicated space on the schedule. The Board's web reporting system has a check box to indicate a contribution was from a fundraiser.

It is our opinion that a candidate utilizing your services to operate an online store must report the gross amount each supporter pays to your store as a contribution and the candidate shall indicate the contribution was from a fundraiser. The candidate shall report as an expenditure any fee you withhold for the cost of the merchandise and handling. Using the example above, the candidate would report a contribution of \$75 and an expenditure equal to the amount you withheld from the contribution (\$15 plus handling).

Iowa Code section 68A.503 prohibits an insurance company, savings association, bank, credit union, or corporation from making a monetary or in-kind contribution to a candidate. Thus, these prohibited contributors shall not purchase merchandise or make contributions using your online store.

Finally, section 68A.504 of the Code prohibits a lobbyist or PAC from making a contribution to a legislative or statewide candidate during any day of the regular session (and 30 days after session in the case of a gubernatorial candidate). Thus, lobbyists and PACs shall not purchase merchandise from or make contributions to legislative or statewide candidates using your online store during any day of the regular session (and 30 days after session in the case of a gubernatorial candidate) unless one of the exceptions in section 68A.504 applies.<sup>i</sup>

## CONCLUSION:

In closing, we are of the opinion that nothing in Iowa law would prohibit you from establishing online stores for candidates to sell campaign merchandise and collect contributions provided that you collect adequate information from the purchasers so that the candidates may correctly disclose the transactions as provided above and comply with Iowa Code sections 68A.503 and 68A.504.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
Jonathan Roos, Vice Chair  
John Walsh  
Carole Tillotson  
Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel

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<sup>i</sup> Iowa Code § 68A.504 provides exceptions for state elected officials or candidates who run for federal office and candidates for special elections held during the regular legislative session.